

House Engrossed Senate Bill

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
Senate
Forty-eighth Legislature
Second Regular Session
2008

CHAPTER 258

SENATE BILL 1165

AN ACT

AMENDING SECTION 28-2091, ARIZONA REVISED STATUTES; RELATING TO THE SALVAGE,
SEIZURE AND DISMANTLING OF VEHICLES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 28-2091, Arizona Revised Statutes, is amended to
3 read:

4 28-2091. Salvage certificate of title; stolen vehicle
5 certificate of title; nonrepairable vehicle
6 certificate of title; recovered vehicles; violation;
7 classification; definitions

8 A. If a vehicle that is subject to titling or registration pursuant to
9 this chapter becomes a salvage vehicle, STOLEN VEHICLE or nonrepairable
10 vehicle and is acquired by an insurance company as a result of a total loss
11 insurance settlement, the insurance company or its authorized agent shall
12 submit an application, AS DETERMINED BY THE INSURANCE COMPANY OR ITS
13 AUTHORIZED AGENT, to the department within thirty days after the title is
14 properly assigned by the owner to the insurance company, with all liens
15 released, on a form prescribed by the department for EITHER a salvage
16 certificate of title, STOLEN VEHICLE CERTIFICATE OF TITLE or nonrepairable
17 vehicle certificate of title and. THE SELECTED TITLE SHALL include the
18 following:

- 19 1. A properly endorsed certificate of title.
- 20 2. A lien satisfaction, if applicable.
- 21 3. The appropriate fees.

22 B. WITHIN THIRTY DAYS AFTER ORAL OR WRITTEN ACCEPTANCE BY THE OWNER OF
23 AN OFFER IN SETTLEMENT OF TOTAL LOSS, IF AN INSURANCE COMPANY OR ITS
24 AUTHORIZED AGENT IS UNABLE TO OBTAIN THE DOCUMENTS PRESCRIBED BY SUBSECTION
25 A, PARAGRAPHS 1 AND 2 OF THIS SECTION, THE INSURANCE COMPANY OR ITS AGENT, ON
26 A FORM PROVIDED BY THE DEPARTMENT, MAY SUBMIT AN APPLICATION TO THE
27 DEPARTMENT FOR A SALVAGE CERTIFICATE OF TITLE, STOLEN VEHICLE CERTIFICATE OF
28 TITLE OR NONREPAIRABLE VEHICLE CERTIFICATE OF TITLE. THE APPLICATION SHALL
29 INCLUDE EVIDENCE THAT THE INSURANCE COMPANY OR ITS AGENT HAS MADE TWO OR MORE
30 WRITTEN ATTEMPTS TO OBTAIN THE DOCUMENTS PRESCRIBED BY SUBSECTION A,
31 PARAGRAPHS 1 AND 2 OF THIS SECTION. THE APPLICATION SHALL INCLUDE THE
32 APPROPRIATE FEES PRESCRIBED BY SUBSECTION A, PARAGRAPH 3 OF THIS SECTION.
33 THE INSURANCE COMPANY SHALL INDEMNIFY AND HOLD HARMLESS THE DEPARTMENT FOR
34 ANY CLAIMS RESULTING FROM THE ISSUANCE OF A SALVAGE CERTIFICATE OF TITLE,
35 STOLEN VEHICLE CERTIFICATE OF TITLE OR NONREPAIRABLE VEHICLE CERTIFICATE OF
36 TITLE PURSUANT TO THIS SUBSECTION.

37 ~~B.~~ C. Except for vehicles registered pursuant to section 28-2482,
38 28-2483 or 28-2484, if the owner retains possession of a salvage vehicle or
39 nonrepairable vehicle, the owner shall comply with this section before
40 receiving a total loss settlement from the insurance company or otherwise
41 disposing of the vehicle.

42 ~~C.~~ D. Any other owner of a vehicle that is a salvage vehicle or
43 nonrepairable vehicle shall apply for a salvage certificate of title or
44 nonrepairable vehicle certificate of title pursuant to this section.

1 ~~D~~. E. On receipt of a proper application, the department shall issue
2 a salvage certificate of title, STOLEN VEHICLE CERTIFICATE OF TITLE or
3 nonrepairable vehicle certificate of title for the vehicle.

4 ~~E~~. F. If the department issues a nonrepairable vehicle certificate of
5 title for a vehicle, the registration of the vehicle is cancelled. The front
6 of a nonrepairable vehicle certificate of title shall be branded with the
7 word "nonrepairable". The ownership of a vehicle for which a nonrepairable
8 vehicle certificate of title has been issued shall not be reassigned more
9 than two times on that certificate of title. If a nonrepairable vehicle
10 certificate of title is issued for a vehicle, the department shall not issue
11 any further certificate of title for that vehicle.

12 ~~F~~. G. An owner of a vehicle that is not a salvage vehicle who sells
13 the vehicle as scrap or for purposes of dismantling or destroying shall
14 assign the certificate of title to the purchaser, and the purchaser shall
15 comply with section 28-2094.

16 ~~G~~. H. On sale of the vehicle, an owner of a salvage vehicle for which
17 a salvage certificate of title has been obtained or an owner of a
18 nonrepairable vehicle for which a nonrepairable vehicle certificate of title
19 has been obtained shall assign and deliver the salvage certificate of title
20 or nonrepairable vehicle certificate of title to the purchaser and shall
21 notify the department of the name and address of the purchaser.

22 ~~H~~. I. Except as provided in subsection ~~K~~ L of this section, the
23 department shall issue a certificate of title to a vehicle that has been
24 issued a salvage CERTIFICATE OF TITLE OR STOLEN VEHICLE certificate of title
25 as a result of a total loss settlement by reason of theft if the vehicle is
26 recovered and was not wrecked or stripped of essential parts and the
27 insurance company or its authorized agent submits an affidavit to the
28 department in a form prescribed by the department stating either of the
29 following:

30 1. The vehicle is a recovered theft and both of the following:

31 (a) The vehicle was not wrecked or stripped of essential parts.

32 (b) To the insurance company's or its authorized agent's actual
33 knowledge, no air bag or component part necessary to the proper function of
34 the air bag system deployed in the vehicle or was removed from the vehicle.

35 2. The vehicle is a recovered theft and, to the insurance company's or
36 its authorized agent's actual knowledge, an air bag or an air bag module
37 deployed in the vehicle or was removed from the vehicle. The insurance
38 company or its authorized agent shall list the location in the vehicle of
39 each deployment or removal of an air bag or an air bag module.

40 ~~I~~. J. On receipt of an affidavit submitted pursuant to subsection
41 ~~H~~ I, paragraph 2 of this section, the department shall mark its records to
42 indicate the deployment or removal of the air bag or air bag module from the
43 vehicle and the location of each deployment or removal.

1 ~~J~~ K. The insurance company or its authorized agent shall give the
2 purchaser of a vehicle that is a recovered theft, as described in subsection
3 ~~H~~ I of this section, a copy of the affidavit submitted pursuant to
4 subsection ~~H~~ I of this section.

5 ~~K~~ L. If the vehicle is a recovered theft and components of the
6 vehicle's air bag system, other than the air bag or the air bag module
7 described in subsection ~~H~~ I, paragraph 2 of this section, or other parts of
8 the vehicle were removed compromising the functional integrity of the air bag
9 system or the structural integrity of the vehicle, the insurance company or
10 its authorized agent shall submit an affidavit to the department in a form
11 prescribed by the department stating that the vehicle is a recovered theft
12 and that components of the vehicle's air bag system, other than the air bag
13 or the air bag module described in subsection ~~H~~ I, paragraph 2 of this
14 section, or other parts of the vehicle were removed compromising the
15 functional integrity of the air bag system or the structural integrity of the
16 vehicle. The department shall not issue a certificate of title to the
17 vehicle but may issue a restored salvage certificate of title pursuant to
18 section 28-2095 if all of the following apply:

19 1. The vehicle is repairable.

20 2. The department successfully completes a level three inspection as
21 prescribed in section 28-2011.

22 3. The vehicle meets other requirements the director prescribes.

23 ~~L~~ M. Except as provided in subsection ~~M~~ N of this section, any
24 person who sells a vehicle that is issued a certificate of title pursuant to
25 subsection ~~H~~ I of this section and who has actual knowledge that an air bag,
26 an air bag module or components of the vehicle's air bag system compromising
27 the functional integrity of the air bag system deployed or were removed from
28 the vehicle shall not fail to disclose the deployment or removal to the buyer
29 before completion of the sale with the intention of concealing the deployment
30 or removal. A person who violates this subsection is guilty of a class 1
31 misdemeanor.

32 ~~M~~ N. Subsection ~~L~~ M of this section does not apply to either of the
33 following:

34 1. An insurance company or its authorized agent who issues an
35 affidavit pursuant to subsection ~~H~~ I of this section unless the insurance
36 company or its authorized agent intentionally fails to disclose the
37 deployment or removal of an air bag, an air bag module or components of the
38 vehicle's air bag system that compromise the functional integrity of the air
39 bag system.

40 2. A person who owns a vehicle that is issued a certificate of title
41 pursuant to subsection ~~H~~ I of this section if the person repairs or replaces
42 the air bag or air bag module in the vehicle.

1 ~~N.~~ O. Any person who sells a vehicle for which a salvage certificate
2 of title has been issued and who knows a salvage certificate of title has
3 been issued for the vehicle shall disclose to the buyer before completion of
4 the sale that the vehicle is a salvage vehicle.

5 ~~O.~~ P. If a vehicle that is titled as a salvage vehicle is to be
6 scrapped, dismantled or destroyed, the owner or purchaser shall comply with
7 section 28-2094.

8 ~~P.~~ Q. The provisions of this chapter that refer to titles apply to
9 salvage certificates of title, STOLEN VEHICLE CERTIFICATES OF TITLE and
10 nonrepairable vehicle certificates of title issued pursuant to this section
11 unless they conflict with this section.

12 ~~Q.~~ R. If a component part of a vehicle on which the vehicle
13 identification number is affixed is to be replaced and if the vehicle is
14 being repaired by a person other than its owner, the person shall notify the
15 owner in writing and in the manner prescribed by the department that the part
16 has been replaced, and the owner shall comply with section 28-2165. This
17 subsection does not apply if the department has not issued a salvage
18 certificate of title or a nonrepairable certificate of title and if the
19 vehicle manufacturer or the manufacturer's authorized agent meets all of the
20 following conditions:

21 1. The frame is the component part replaced.

22 2. The frame replacement is performed by the vehicle manufacturer or
23 the manufacturer's authorized agent.

24 3. If the original frame contained a vehicle identification number or
25 serial number, the original vehicle identification number or serial number,
26 in a similar size and style, is restamped in the replacement frame by the
27 manufacturer or the manufacturer's authorized agent.

28 4. Any existing manufacturer warranties remaining on the vehicle are
29 not voided.

30 5. The manufacturer or the manufacturer's authorized agent obliterates
31 all vehicle identification numbers or serial numbers contained on the
32 original frame.

33 ~~R.~~ S. Except as otherwise provided, a person who violates this
34 section is guilty of a class 2 misdemeanor.

35 ~~S.~~ T. For the purposes of this section:

36 1. "Essential parts" means integral and body parts, the removal,
37 alteration or substitution of which will tend to conceal the identity or
38 substantially alter the appearance of the vehicle.

39 2. "Nonrepairable vehicle" means a vehicle of a type that is otherwise
40 subject to titling and registration pursuant to this chapter and that either:

41 (a) Has no resale value except as a source of parts or scrap metal and
42 the owner or insurer designates the vehicle solely as a source of parts or
43 scrap metal.

1 (b) Is a completely stripped vehicle that is recovered from theft and
2 that is missing the engine or motor, the transmission, all of the bolt-on
3 sheet metal body panels, all of the doors and hatches, substantially all of
4 the interior components and substantially all of the grill and light
5 assemblies or that the owner designates has little or no resale value except
6 its worth as a source of scrap metal or as a source of a vehicle
7 identification number that could be used illegally.

8 (c) Is a completely burned vehicle that has been burned to the extent
9 that there are no usable or repairable body or interior components, tires and
10 wheels, engine or motor or transmission and that the owner irreversibly
11 designates as having little or no resale value except as a source of scrap
12 metal or as a source of a vehicle identification number that could be used
13 illegally.

14 3. "Nonrepairable vehicle certificate of title" means a vehicle
15 ownership document issued to the owner of a nonrepairable vehicle.

16 4. "Salvage vehicle" means a vehicle, other than a nonrepairable
17 vehicle, of a type that is subject to titling and registration pursuant to
18 this chapter and that has been stolen, wrecked, destroyed, flood or water
19 damaged or otherwise damaged to the extent that the owner, leasing company,
20 financial institution or insurance company considers it uneconomical to
21 repair the vehicle.

22 5. "STOLEN VEHICLE CERTIFICATE OF TITLE" MEANS A VEHICLE OWNERSHIP
23 DOCUMENT ISSUED TO THE OWNER OF A VEHICLE THAT HAS BEEN STOLEN AND NOT
24 RECOVERED.

~~APPROVED BY THE GOVERNOR JUNE 6, 2008.~~

~~FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 6, 2008.~~

Passed the House April 3, 20 08,

by the following vote: 55 Ayes,

0 Nays, 5 Not Voting

[Signature]
Speaker of the House

[Signature]
Chief Clerk of the House

Passed the Senate March 6, 20 08,

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

S.B. 1165

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State
this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

SENATE CONCURS IN HOUSE
AMENDMENTS AND FINAL PASSAGE

Passed the Senate June 3, 20 08

by the following vote: 17 Ayes,

9 Nays, 4 Not Voting

Timothy S. Bee
President of the Senate

Charmine Bellenger
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

3rd day of June, 20 08

at 12:12 o'clock P. M.

Jennifer Uparra
Secretary to the Governor

Approved this 6 day of

June 2008

at 10¹⁰ o'clock 11. M.

J. R. ...
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 6 day of June, 20 08

S.B. 1165

at 12:59 o'clock P M.

Janice K. Brewer
Secretary of State